

REMARKS/ARGUMENTS

Claims 24-28, 30-55 have been elected for examination. Claims 24-28 and 30-38 are allowed. The remaining claims 39-55 have been canceled. No new matter is introduced by this Response, and thus entry thereof is respectfully requested.

I. Rejection Under 35 U.S.C. §102

Claims 39-41 and 44-55 are rejected under 35 U.S.C. §102(e) as being, allegedly, anticipated by Austin et al., U.S. Patent No. 5,837,115.

Applicants respectfully disagree. The Examiner acknowledges that Austin does not teach the use of a constricted region having a traverse dimension that is substantially smaller than the first radius of gyration, and in fact, Austin teaches away from it. For this and/or other reasons stated in Applicants' previous Response, claims 24-28 and 30-38 are deemed novel and unobvious in view of Austin and all other references made of records. Applicants respectfully note that for the same reasons, claims 39-41 and 44-55 are also novel because Austin does not employ a constricted region having a dimension substantially less than an equilibrium spherical shape of the small nucleic acid molecules.

However, in the interest of expedite prosecution but without acquiescence to the rejection, Applicants opt to cancel claims 39-41, 44-55 and seek issuance of the allowed claims 24-28 and 30-38. Applicants expressly reserve the rights to file one or more continuation and/or divisional applications drawn to the subject matter of the claims canceled herein.

II. Rejection Under 35 U.S.C. §103

Claims 42 and 43 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Austin in view of Wilding et al., U.S. Patent No. 5,304,487. This rejection is moot in view of the remarks above and cancellation of claims 42 and 43.

CONCLUSION

Applicants submit that this paper fully addresses the Final Office Action mailed March 17, 2008. This application is in condition of allowance. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned attorney at (650) 849-3383. The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No. 33205-709).

Respectfully submitted,

Date:

6/17/08

By:

Karen K. Wong
Karen K. Wong, Ph.D., J.D.
Reg. No. 44,409

WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304
(650) 849-3383
Customer No. 021971